IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO. 507 OF 2004
IN
ARBITRATION PETITION NO.54 OF 2004

1. Mrs. N. Poongodi w/o Mr. V.
Neelakandan & anr. .. Appellants

v/s.

M/s. Tata Finance Limited .. Respondent

Mr.Sanjay Jain i/by Mr. A.M.Saraogi for appellants.

Mr.Y.R.Shah with Mr.F.Pooniwala for Respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 17th August, 2004

P.C.

Heard.

2. The learned counsel for the appellant submits that there was no adequate proof that the award was served upon the appellant in July, 2001 as held by the learned Single Judge.

3. It appears from the letter dated 6th August, 2001 sent by the Arbitrator to the present respondent that copy of the award dated 24th July, 2001 was transmitted to the present appellants but the envelop returned back with the postal remark "refused". There appears to be not much controversy that the copy of the award dated 24th July, 2001 was sent by the Arbitrator to the present appellants by registered post with

acknowledgement due as well as under postal certificate. From the letter dated 6th August, 2001 sent by the sole Arbitrator to the present respondent it transpires that the copy of the award which was sent by registered post was returned with the remark "refused". In so far as the copy of the award sent under postal certificate is concerned, the said envelop did not return undelivered. The learned counsel for the appellant did not challenge the correctness of the appellants' address as reflected from the postal receipt. We are afraid, the envelop under postal certificate having been sent at the correct address of the appellants and not received undelivered, presumption has to be drawn that the said envelop was received by the addressee.

4. The appellants miserably failed to rebut the presumption by reliable material that the copy of the award dated 24th July, 2001 was not received by them. In this view of the matter, the impugned order cannot be faulted. Appeal is dismissed in limine.

(R.M.LODHA, J.)

(J.P.DEVADHAR, J.)